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EXAMINER

PATEL, JAGDISH

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 03/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/350,983

Applicant(s)

PORAT ET AL.

Examiner

JAGDISH N PATEL

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-70 and 74-112 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-70 and 76-112 is/are rejected.
- 7) ☐ Claim(s) 74 and 75 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. This communication is in response to amendment filed 12/5/02.

#### *Response to Amendment*

In response to the amendment objection to specification has been withdrawn.

As per the applicant's communication with the examiner, 35 U.S.C. 103 rejection of claims 1, 7-15, 18-29, 30-33, 37-39, 47-51, 53, 62-70, 74, 76-82, 101 and 112 based on Gindlesperger reference in combination with Alaia, Walker, Chen and Mori have been withdrawn. Thus, the applicant's arguments regarding Gindlesperger are rendered moot.

Furthermore, as per discussion with the applicant, objections to claims 2-6, 34-36 and 83-100 have been withdrawn.

In view of the above consideration a new non-final office action is issued.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 102-105 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point

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out and distinctly claim the subject matter which applicant regards as the invention.

Claim 102 recites the limitation "the buyer's auction" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim. Dependent claims inherit same deficiency.

Claim 102 is also unclear because no limitation is recited that would relate the limitation "electronic transaction an electronic site" to any limitation of parent claim 1. It is maintained that claims 102-104 have no relationship to parent claim and this renders it improper dependent claim.

Dependent claims inherit same deficiency.

Similar analyses also renders claim 105 indefinite and unclear.

Appropriate corrections are required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having

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ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-15, 18-29, 30-33, 37-56, 62-70, 76, 78-82, 101 and 109-112 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alaia et al. US 6,408,283) (Alaia) and further in view of Huberman (US Pat. 5,826,244) hereafter, referred to as Huberman.

Claim 1: Alaia discloses a fully automated method of facilitating an electronic auction between a prospective buyer and a plurality of prospective sellers with near perfect information (abstract), comprising:

a) inputting into a computer a buyer's request for offer (Fig.1 buyer 10, col. 55-57, product or service be defined by a buyer);

b) communicating the request for an offer to at least two of the sellers (col. 3 L 8-17, request is communicated to potential suppliers, 30);

c) receiving offers, including terms of sale in response to the request for an offer, from at least two of the sellers (col. 3 L 18-24, bidders (suppliers) submit bids 58..., terms and conditions are indicated as ..RFQ which include specifications 50..);

f) receiving an adjusted offer from at least of the seller during a specified auction period (col. 4 L 4-13,

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..participating bidder to see and begin planning their competitive responses);

g) communicating information regarding at least some of the seller offers and at least part of the rating information to the buyer

Alaia, fails to teach steps d) automatically generating rating information about the seller offers and receiving and communicating the (rating) information to at least one other seller. Hubberman, in the same field of endeavor, however, teaches a method of automatically facilitating an electronic auction between a prospective buyer and a plurality of sellers (abstract), comprising:

d) automatically generating rating information about the seller offers based on a plurality of predetermined criteria (col. 12 L 44- col. 13 L 8, the evaluation (i.e. rating of the seller offers) can be entirely automated..);

e) communicating information regarding at least some of the seller offers to at least one other seller (col. 10 L 36-41, ..information is available to bidders about each other's bids .. );

It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate steps of automatically generating rating information about the seller

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offers and communicating the information to at least one other seller as disclosed by Huberman into the method disclosed by Alaia to form the claimed invention because generating rating information about the seller offers would allow the buyer to evaluate the offer not just on the basis of price alone but also based on other critical considerations such as the sellers creditworthiness, experience level for delivering the offered product or services which are commonly evaluated by a buyer in conjunction with the competitive pricing at which the product is offered (Huberman, teaches this motivation as ..if the customer favors a particular supplier for reasons other than price, such as the supplier's reputation, past experience...in col. 12 L 66- col. 13 L 8, this amounts to rating each seller offer automatically as would be obvious to one of ordinary skill in the art).

Communicating the information regarding the seller offers to other seller(s) would enable the seller to respond to current bids in association with the rating of the offers from other seller(s).

6. Claim 2: Inputting...a buyer's request for information about products or services...(Alaia, refer to RFQ phase, col. 3 L 9-24);

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Finding information in response to the request (Alaia, bids 58 taken against individual lots with RFQ col. 3 L 9-24 );

Communicating at least part of the information found to the buyer (Alaia, the Auction Administration phase.. coordinates the auction and administers the auction setup and preparation col. 3 L 9-29);

Communicating information regarding ..seller offers and at least part of the rating information to the buyer (step 884, 886, notify buyer).

All other limitation have been analyzed per claim 1.

Claims 3-6 are customary steps to aid the buyer in communication and/or presenting product information and are old and well-known steps and official notice is taken to that effect. Various protocols and arrangements for electronic shopping as recited in claims 3-6 are variations obvious to those skilled in the art. Refer to claim 2 for motivation.

Claim 7-11: the computer is operated by a service provider unrelated to ..the buyer or the sellers (Alaia coordinator 20, shown in Fig. 1), independent destination on the WWW (web site of the coordinator (ex. Freemarket.com), this also is third party service. Various business arrangements recited in claims 10 and 11 are obvious and well-established business practices.



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For example, providing service on an out-source basis wherein a service provides acts as a primary contractor and hires a third party to acquire products or render services because of economical considerations.

Claim 12-15: inputting the request using graphical user interface with other related features recited are inherent to online auction wherein the auction is implemented via a web site of the provider as discussed in Alaia col. 3 L 61-63.

Claims 18-29: a plurality of criteria concerning buyer preferences (inherent feature of RFQ (Request for Quotation)).

It would have been obvious to one of ordinary skill in the art at the time of invention to implement a plurality of criteria concerning buyer preferences because this would allow the buyer to select his/her preferred choice of payment methods, shipping methods etc. are obvious variations of criteria or constraints concerning buyer request which include desired product, seller, transfer, payment characteristics and are anticipated by the cited art in a similar manner.

Claims 30-32, 77: wherein said request includes asking sellers to apply a suggestion module to said request (Alaia, col. 2 L 55-66, specification 50 for a desired product is a document that not only stipulate the buyers requirement regarding the products and services but also solicit information

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from the potential sellers whereby the sellers would provide suggestions to buyer regarding similar or alternative products, shipments, delivery schedules etc.).

Claim 33: buyer remains anonymous to said prospective sellers (Alaia, col. 4 L43-46, the information that can be displayed by the client application as shown in Fig. 6A-6D).

Claim 37: a software process initiates the communicating the request... (Alaia Fig. 2 and 3, col. 3 L 9-17).

Claim 38-46: communicating information about the buyer to at least one of the sellers (Alaia, col. 3 L 3-8, suppliers receive notices regarding upcoming auction as well as client software), ..in consideration to the buyer (Alaia, col. 3 L 3-8, suppliers participate in the buyer's auction).

Claims 47-50: cited references Alaia and Huberman fail to explicitly disclose various forms of rating information.

However, ranking of merchants, vendors and service providers in many different forms is old and well known. For example, out-sources vendors are ranked by a numerical score for each category of product or service they provide. It is stated that broadly interpreted, rating of vendors as disclosed by Huberman cover all variations of rating information claimed herein.

Claim 51-52: seller information includes identity of the offerer (inherent to both Alaia and Huberman because the

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offerers (sellers) communicate with to auction brokers, e.g. refer to Fig.3 of Huberman).

Claim 52-54 and 109-111: communicating of seller offers and rating information takes place during auction period (Alaia, auction period is indicated by Fig. 9A). Other variations of this step such as "before" and "after" the auction period are obvious to those skilled in the art as such knowledge is widely available in marketing art.

Claims 109-111 are similarly analyzed.

Claims 55-56: the recited claims pertain to selling offering purchase history information of consumer for marketing.

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement these steps for marketing and maximizing revenue from the operation of the auction.

Claim 62: time remaining in the specified auction period (Alaia Fig 7A time line, col. 63-66).

Claims 63-68: buyer's auction includes specified auction parameters (Alaia Fig. 6A-9B).

Claims 69-70: adjusted offer expires after a time period specified by the offerer (Alaia schedule close, Fig. 7A, time

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period is 10:30 Hours), time specified by the offerer (time specified is 10:30).

Claim 76: ..side by side comparisons of a plurality of seller offers (Alaia, Fig. 8, refer to BIDDER and BID AMOUNT).

Claims 78-82: adding information about the auction to a database (Alaia, refer to Figures 6A-9B elements of database recited in dependent claims).

Claims 101: communicating an acceptance by the buyer..(inherent to any auction and therefore, Alaia method).

Claim 112: corresponds to and analyzed as in method claim 1.

7. Claims 34-36 and 106-108 are rejected under 35 U.S.C.

103(a) as being unpatentable over Alaia and Huberman as applied to claim 1 and further in view of Walker (US 6,041,308).

Claims 34-36: Alaia or Huberman fail to explicitly teach that communicating of request for an offer includes searching a database for offers corresponding to the request (Walker, Fig. 2, offer database 500), However, searching a database and Pre-compilation of database and compilation on the fly are old and well methods of database generation and updates and obvious to one of ordinary skill the art.

Claims 106-108: Alaia and Huberman fail to teach, however, Walker, in the same field of endeavor, teaches a method of electronic shopping which comprises the step of automatically

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generating rating information about seller offers after the step of receiving adjusted offer (col. 4 L 21-24, eligibility criteria).

It would have been obvious to have the rating the seller offers before and after receiving an adjusted offer because it would enable the buyer to monitor the trend of rating information available during the course of the auction for each seller.

8. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alaia and further in view of Huberman as applied to claim 1 and further in view of Chen (US Pat. 65,991,737) (Chen).

Claims 16-17: Alaia and Huberman fail to teach, however, Chen, in the same field of endeavor, teaches a method of electronic shopping wherein a purchase request is input using a voice user interface (inherently includes natural language input) (Chen Col. 4 L 61- col. 5 L 16).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of claim 1 as disclosed by Alaia in view of Huberman provide for input using a voice interface and further including natural language input per Chen reference because this would facilitate ordering of bidding

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in an interactive auction easier and faster than inputting via a typing the required inputs.

9. Claims 57-61 and 106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alaia and further in view of Huberman as applied to claim 1 and further in view of Mori et al. (EP 0 828 223 A2) (Mori).

Claims 57-61: Alaia and Huberman fail to recite and Mori recites that the adjusted offer is adjusted at least in part by a computer algorithm (see abstract, and Figure 1).

It would have been obvious to one of ordinary skill in the art at the time of invention to implement the computer algorithm per claims 57 including various features recited in dependent claims 58-61 because providing capability of computer algorithm for adjusting offers and using conventional rules and procedures by computer would make it unnecessary for the bidder to stay before the auction terminal and would allow more accurate and timely entry of auction information.

Claim 106: the step of automatically generating rating information occurs before the step of receiving an adjusted offer (Gindlesperger, col. 3 L 5 L 6-10).

10. Claim 83-94: Note that all limitations have been analyzed per claim 1 except limitation reciting "selling information

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about the auction". Note that the "selling" of information as recited has no dependence on the method of conducting auction recited in steps a) - g) and therefore the limitation is analyzed as such.

Both Alaia and Huberman are silent about selling auction information. However, official notice is taken that the concept of selling purchase history database by entity who compiles it is old and well known in marketing. For example a business entity might desire to target consumers in certain geographic area with certain purchasing habits for sale of service or products. A small business entity (telemarketing for example) may purchase such commercial database containing appropriate consumer profiles (including demographical data) and purchase history for target marketing.

Claims 95-100 are similarly analyzed.

### ***Allowable Subject Matter***

1. Claims 74 and 75 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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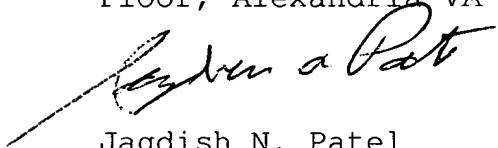
### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jagdish Patel whose telephone number is (703) 308-7837. The examiner can normally be reached Monday-Thursday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1038. The fax number for Formal or Official faxes to Technology Center 3600 is (703) 305-7687. **Draft faxes may be submitted directly to the examiner at (703) 746-5563.**

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113 or 308-1114. Address for hand delivery is 2451 Crystal Drive, Crystal Park 5, 7<sup>th</sup> Floor, Alexandria VA 22202.



Jagdish N. Patel

(Examiner, AU 3624)

2/24/2002